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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	: Chapter 11
	:
SEARS HOLDINGS CORPORATION, <i>et al.</i> ,	: Case No. 18-23538 (RDD)
	: (Jointly Administered)
Debtors.	:
-----X	

**LIMITED OBJECTION OF CA, INC. TO DEBTORS'
NOTICE OF CURE COSTS AND POTENTIAL ASSUMPTION AND
ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED
LEASES IN CONNECTION WITH GLOBAL SALE TRANSACTION**

CA, Inc. ("CA") hereby submits this limited objection (the "Objection") to the *Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction* [ECF No. 1731] (the "Notice of Cure Costs and Potential Assumption and Assignment") filed in these cases by the above-captioned debtors and debtors-in-possession (the "Debtors").

1. CA and Debtor Sears Holdings Management Corporation are parties to a License Agreement, Order Form and Addendum # 1 to the Order Form, each effective December 15, 2000, as amended, most recently by Amendment # 14, effective November 14, 2017 (collectively, the "License Agreement").

2. In their Notice of Cure Costs and Potential Assumption and Assignment, the Debtors identify the License Agreement at entries 1366 – 1368 on Schedule A attached thereto, as

a contract they may seek to assume and assign to the Buyer in connection with the Global Asset Sale Transaction.¹ The Debtors indicate on Schedule A to the Notice of Cure Costs and Potential Assumption and Assignment that the Cure Amount for the License Agreement is \$1,245,822.

3. Subsequent to the date of filing of the Notice of Cure Costs and Potential Assumption and Assignment, the Debtors paid some, but not all of the Cure Amount due under the License Agreement, consisting of postpetition charges arising under the License Agreement. CA's records indicate that, taking into account these payments, the following amounts remain past due and outstanding under the License Agreement:

\$180,901.00 on Invoice # 90410906, dated October 14, 2018;

\$27,304.82 on Invoice # 90410907, dated October 14, 2018; and

\$61,270.31 on Invoice # 90420084, dated January 14, 2019.²

4. Pursuant to section 365(b) of the Bankruptcy Code, an executory contract can only be assumed if all monetary defaults are cured by payment, all non-monetary defaults are cured by performance, the non-debtor party is compensated for any losses resulting from such defaults and the non-debtor party is provided with adequate assurance of future performance under the lease. See 11 U.S.C. §§ 365(b)(1)(A)-(C).

5. Thus, as of the date of this Objection, the Cure Amount stated in the Notice of Cure Costs and Potential Assumption and Assignment has not been completely satisfied by the Debtors. As of the Date of this Objection, the Cure Amount for the License Agreement is \$269,476.13.

RESERVATION OF RIGHTS

6. To the extent that license fees or other charges become due after the date of this

¹ Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Notice of Cure Costs and Potential Assumption and Assignment.

² This charge on Invoice # 90420084 is a postpetition charge that the Debtors are required to pay regardless of whether the License Agreement is assumed by the Debtors.

Objection but are not paid, or CA suffers other pecuniary losses under the License Agreement, CA further reserves its right to amend this Objection to reflect such additional amounts which may not have yet been billed or have not yet become due under the terms of the License Agreement. CA reserves the right to supplement this Objection prior to or at the hearing on the Notice of Cure Costs and Potential Assumption and Assignment. In addition, CA reserves all of its rights under the License Agreement, as a matter of law and/or equity.

WHEREFORE, CA requests that the Court sustain its Objection and grant such further relief as it deems fair and appropriate.

Dated: Uniondale, New York
January 25, 2019

FARRELL FRITZ, P.C.

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